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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Park, et al. : DECISION REFUSING STATUS
Application No. 10/692,618 : UNDER 37 CFR 1.47(a)
Filed: October 24, 2003 :
Atty. Dkt. No.: CS21560RL :
For: METHOD AND APPARATUS FOR :
BEZIER CURVE APPROXIMATION DATA :
COMPRESSION :

This decision is in response to the petition under 37 CFR 1.47(a), filed March 9, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed October 24, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed February 4, 2004 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.


The instant petition fails to satisfy item (1). Petitioners indicate that attempts to contact the non-signing inventor via email and telephone on August 27, 2003 were unsuccessful. Petitioners further indicate that a letter and document were sent to the non-signing inventor at the non-signing inventor's last known address and that no response was received.

It is unclear if petitioners are asserting that the non-signing inventor cannot be reached or located for presentation of the application papers or if petitioners are asserting that the non-signing inventor has refused to execute the declaration after having been presented with the application papers.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. See, MPEP 409.03(d).

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioners have failed to establish that the non-signing inventor received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the


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